

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

HB 7060 – SB 7084

August 22, 2023

SUMMARY OF BILL: Requires that a child aged 16 to 18 be transferred from the Department of Children's Service's (DCS) custody to the sheriff of the county to be held and dealt with as an adult if the child is charged with certain criminal offenses. Requires the court to give a reasonable written notice to the child's custodian of the time, place, and purpose of the probable cause hearing at least 14 days prior to the hearing. Authorizes the criminal court to review a juvenile court's determination that a juvenile is to be tried as an adult upon motion by either party, and that the juvenile court's ruling be stayed until the conclusion of the review. Requires the record on appeal be filed no later than 15 days after the entry of the juvenile court's order, and that the criminal court must conduct a de novo review of records without an evidentiary hearing within 15 days of the filing of the record on appeal. Authorizes counsel for the child to serve and file a brief 15 days after the state's brief is filed with the clerk. Requires the criminal court to issue a decision within 45 days after the date on which the record is filed.

FISCAL IMPACT:

**Increase State Expenditures – \$7,649,400 Incarceration
\$12,000,000/FY23-24**

**Decrease State Expenditures – Net Impact -
\$16,484,400/FY24-25 and Subsequent Years**

Decrease Federal Expenditures – \$1,978,300/FY24-25 and Subsequent Years

Assumptions:

- Pursuant to Tenn. Code Ann. § 37-1-134(a)(1)(A), a child may be transferred to a criminal court and tried for a criminal offense as an adult if the child is:
 - Less than 14 years of age at the time of the alleged conduct and charged with first degree murder or second-degree murder or attempted first or second-degree murder;
 - Between the ages of 14 and 16 years at the time of the alleged conduct and charged with specified violent offenses;
 - 16 years of age or more at the time of the alleged conduct and charged with the offense of robbery or attempt to commit robbery; or
 - 17 years of age or more at the time of the alleged conduct.

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- According to information provided by the Tennessee Department of Corrections (TDOC), there has been an average of 271 adjudicated cases of felony offenses by juveniles, which were then and placed in the Department of Children's Service's (DCS) custody.
- According to information provided by TDOC, the average length of sentence served for these juveniles is 5.45 years.
- Tennessee Code Annotated § 39-11-106(a)(13) defines firearm as any weapon that will or is designed to or may readily be converted to expel a projectile by the action of an explosive, the frame or receiver of any such weapon, any firearm muffler or firearm silencer, or any destructive device, but does not include an antique firearm.
- For the purpose of this analysis, it is assumed that half of those felonies were committed with a firearm, which will result in 135.5 (271 x 50%) cases being transferred to criminal courts annually.
- The proposed legislation will result in 135.5 additional admissions annually serving 5.45 years.
- Based on population data from the U.S. Census Bureau, population growth in Tennessee averaged 0.96 percent per year (from 2018 to 2021).
- The weighted average operational costs per inmate per day are estimated to be \$50.63 for inmates housed at state facilities and \$52.11 for inmates housed at local facilities.
- The estimated increase in incarceration costs is estimated to be the following over the next three-year period:

Increase in State Expenditures	
Amount	Fiscal Year
\$ 2,522,700	FY24-25
\$ 5,072,500	FY25-26
\$ 7,649,400	FY26-27

- Pursuant to Public Chapter 1007 of 2022, recurring costs increases are to be estimated on the highest of the next three fiscal years; therefore, the recurring increase in incarceration costs relating to the transfer of juveniles will be \$7,649,400.
- The estimated fiscal impact of the proposed legislation does not consider the availability of beds in state and local facilities, but is based solely on the current operating costs of state facilities and the reimbursement rates for local facilities as is required by Tenn. Code Ann. § 9-4-210.
- All calculations used in completion of this fiscal note are available upon request.
- It is estimated that three updated housing units will be required by TDOC in order to accommodate the increase in juvenile offenders as juvenile units have unique federal requirements that differ from other housing units, which would create a one-time increase in state expenditures of \$1,200,000 (\$400,000 per unit x 3 units) in FY23-24.
- In order to manage the increase of juvenile inmates, TDOC will require the following new positions:
 - 7 Correctional Counselors 3's, which will create a recurring increase in state expenditures of \$634,102 [(\$71,400 salary + \$19,186 benefits) x 7 positions]; and

- 6 Correctional Teachers, which will create a recurring increase in state expenditures of \$686,238 [(\$91,800 salary + \$22,573 benefits) x 6 positions].
- The new positions will create an increase in state expenditures of \$1,320,340 (\$634,102 + \$686,238) in FY24-25 and subsequent years.
- The daily rate for a child adjudicated by the juvenile justice system is approximately \$400, or \$146,000 (\$400 x 365 days) per year.
- Due to the decrease in the number of juveniles in their custody, DCS will have the following decrease in funding, which is paid for by 90 percent state funding and 10 percent Title IV-E federal funding.
- The recurring decrease in state expenditures is \$17,804,700 (\$146,000 x 135.5 x 90%) and the recurring decrease in federal expenditures is \$1,978,300 (\$146,000 x 135.5 x 10%). It is assumed decreases will not be incurred until FY24-25 at the earliest.
- The net decrease in FY24-25 and subsequent years is \$16,484,360 (\$1,320,340 - \$17,804,700).
- Although the proposed legislation will lead to a decreased total case load for DCS, it will not result in a lack of need for any of its current case managers given the overall shortage of these employees within DCS.
- Tennessee Code Annotated § 37-1-134(a)(3) already requires a child's custodian to be given 14 days written notice prior to a probable cause hearing; therefore, this provision of the proposed legislation can be accomplished within existing court resources.
- Based on the Fiscal Review Committee's 2008 study and the Administrative Office of the Courts' 2012 study on collection of court costs, fees, and fines, collection in criminal cases is insignificant; therefore, the proposed legislation will not significantly change state or local revenue.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Krista Lee Carsner, Executive Director

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